

COMMONWEALTH OF VIRGINIA

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SENATOR MAMIE LOCKE, Vice-Chair
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VIRGINIA HOUSING COMMISSION

MEETING SUMMARY

Neighborhood Transitions and Building Codes Workgroup

May 7, 2018, 10:00 a.m.
House Room 1, The Capitol

Members Present:

Senator Mamie Locke, *Chair*, Delegate David Bulova, Delegate Betsy Carr, Laura D. Lafayette, Governor's Appointee; Lawrence Pearson, Governor's Appointee; Tyler Craddock, Virginia Association of Housing and Community Development Officials; Chip Dicks, Virginia Association of Realtors; Brian Gordon, Apartment & Office Building Association of Metropolitan Washington; Michelle Gowdy, Virginia Municipal League; Kelly Harris-Braxton, Virginia First Cities; Barry Merchant, Virginia Housing Development Authority; A. Vaughn Poller, Hampton Roads Housing Commission; Earl Reynolds, City of Danville, Community Development Director; Ed Rhodes, Rhodes Consulting; Neal Rogers, Virginia Housing Development Authority; Elizabeth Palen, Executive Director

The Workgroup meeting was called to order by Senator Mamie Locke at 10:00 a.m.

Elizabeth Palen relayed to the Workgroup the topics of study for the 2018 interim: the Manufactured Home Lot Rental Act, the zoning implications of accessory dwelling structures, and the eviction problem in the Commonwealth.

Topic: Zoning Implications of Accessory Dwelling Structures. Related to SJ 53 (2018, Deeds), which was referred to the Virginia Housing Commission for study during the 2018 Session.

Purpose of the Study: To determine the scope of and need for changes in zoning in reference to tiny houses, additions, and other accessory structures used to provide housing.

Ms. Palen noted that the Virginia Municipal League (VML), in conjunction with the Virginia Association of Counties (VACo), at the request of the Virginia Housing Commission sent a survey to all localities in the Commonwealth. The

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SENATOR GEORGE L. BARKER
SENATOR WILLIAM M. STANLEY, JR.

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survey inquired as to whether the locality had received requests to install temporary family health care structures (§ 15.2-2292.1 of the Code of Virginia) and, if so, how many requests were received and how many installed temporary structures were later removed. The legislation, introduced by Delegate Morgan Griffith in 2010, allowed permitting by localities to place temporary free-standing health care structures behind a house in such locality. The law also required such structures to be removed within 60 days after the need for the medical unit had expired.

Two speakers, one from Albemarle County and one from Arlington County, presented their localities' views on this topic. Discussion revolved around whether or not a statewide policy change should be implemented concerning tiny homes, additions, and accessory dwelling structures.

Bill Fritz, Chief of Special Projects in Albemarle County, explained his locality's zoning requirements to the Workgroup. There are approximately 240 accessory apartments, possibly more in Albemarle County. His county has received no requests for the temporary health care structures to date. There are by-right regulations in place in the county. The load standard of roads and parking availability have been taken into account. Urban dwellings are limited to expanding to 35 percent of floor area. Variances can be applied for and granted. The system in place, he said, is adequate.

Joel Franklin, Housing Planner in the Arlington County Housing Division, said Arlington has different issues. Arlington is composed of single-family neighborhoods and single-family lots, and much of Arlington is zoned R-5. The average addition applied for in the county is 750 square feet. The building code that Virginia has adopted requires a thickness of fire walls between the original home structure and additions (providing rental income and affordable housing) that makes the additions too expensive to build. He would like the requirement changed. He also spoke to the Workgroup about adequate parking and the necessity for it to be provided on the property if additional people are to live in a new structure on the same property.

Representatives from both VACo and VML weighed in on the topic and the Workgroup discussed which statutes other states were adopting in regard to tiny houses, pool houses, and other accessory structures. All parties who spoke argued that localities should make their own determinations concerning zoning.

Topic: The Eviction Process

Linda Price, a Richmond attorney who has practiced in real estate law since 1985 and is familiar with the evictions process, explained the legal process of how an eviction occurs. Ms. Price commented that 99.9 percent of tenants sign a standard lease. Most leases include the provision for a five-day grace period to

pay the rent that is owed. There is a standard form for unlawful detainers that may be issued on the twelfth of the month, and it includes a summons that lists the court in which the tenant is to appear. She explained the right of redemption, where the tenant may pay the amount of rent due, the late payment fee, and court costs to prevent a judgement being filed. Currently, the tenant may exercise this right once in a 12-month period.

Ms. Price explained that the vast majority of payment plans are worked out between landlord and tenant and that the landlord's wish is for the tenant to pay and remain in the property and comply with the lease. Landlords may wish to oust a tenant if there is a breach of the lease due to the use of guns or drugs, or if the tenant is causing a disturbance; in such cases, the court will generally give possession to the landlord. She explained 72-hour notices, eviction by sheriffs, and the reciprocal right of either party to appeal the eviction. She noted that the appeal process may take three to six months in Virginia.

Public Comment and Adjournment

The chair asked for public comment. Steven Cady, a citizen from Albemarle County, said he had moved to the county 13 years ago and wanted to turn his pool house into an apartment but the local zoning requirements include allowing a structure, such as a pool house, to have a kitchen and a bedroom, a kitchen and a bathroom, or a bedroom and a bathroom, but not all three—a bathroom, kitchen, and bedroom—because that would change the structure to a freestanding apartment-like structure. He moved from California where structures can be erected for use as Airbnb's or for housing family members and others. He advocated for Virginia to have statewide laws that allow for like zoning provisions.

The meeting was adjourned at 12:15 p.m.